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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,814	06/26/2003	Ann B. Leather		5486

26009 7590 01/21/2004

ROGER M. RATHBUN  
13 MARGARITA COURT  
HILTON HEAD ISLAND, SC 29926

EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/606,814	LEATHER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kurt Fernstrom	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other:  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "about" is a vague term which renders the scope of the claims indefinite. It is not clear what degree of variation would result in the various materials being "about" the same dimensions.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-8, 10-11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson in view of Fromm, and further in view of Thorne. Watson discloses in column 3, line 23 to column 4, line 27 of the specification a kit 14 comprising a plurality of coloring implements 15 and a plurality of flexible magnetic sheets 10, each sheet designed for being colored by the user and attached to a

magnetic backboard. While the magnetic sheets are not explicitly disclosed as having a light color, such a color is inherent in a device which is designed to be colored by a user. Providing packaging and an instruction sheet is a well known feature of art kits, and would have been obvious to one of ordinary skill in the relevant art for the respective purposes of storing and transporting the kit and instructing the user in how to use the kit. Watson fails to disclose a plurality of stencil sheets. It is well known in art kits to provide stencil sheets. Fromm discloses one art kit comprising a plurality of stencil sheets 24. It would have been obvious to one of ordinary skill in the relevant art to modify the kit disclosed by Watson by providing a plurality of stencil sheets for the purpose of allowing the user to decorate the magnetic sheets with a variety of shapes. While Fromm does not disclose that the stencil sheet is of the same dimensions as the sheet 32 to be decorated, providing stencil sheets of the same dimensions as the magnetic sheets would have been obvious as an aesthetic choice of design and for the purpose of making the kit easier to handle and package. Fromm also fails to disclose a laminating sheet for laminating the magnetic sheet after decoration. Providing adhesive laminating sheets is known in the art. Thorne discloses in column 4, lines 56-67 of the specification a paper doll which is laminated after completion. Thorne further discloses that self-adhering sheets are a known means of protecting sheet material. It would have been obvious to one of ordinary skill in the relevant art to modify the kit disclosed by Watson by providing a plurality of laminating sheets for the purpose of allowing the user to protect the magnetic sheets from wear and tear. Such sheets would inherently have the same dimensions as the magnetic sheets.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson in view of Fromm and Thorne, and further in view of Kane. Watson as viewed in combination with Fromm and Thorne discloses all of the limitations of the claims with the exception of the sticky surface on the flexible magnetic sheets. Kane discloses in column 1, lines 30-42 a display apparatus comprising a plurality of magnetic sheets that can either have information printed directly on them or can comprise a sticky surface in the form of "pressure adhesive coating" (lines 38-39) onto which cover sheets bearing indicia can be attached. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Watson by providing a sticky surface on the flexible magnetic sheets for the purpose of allowing the user to attach sheets thereto for subsequent display.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watson in view of Fromm and Thorne, and further in view of Cvetkov. Watson as viewed in combination with Fromm and Thorne discloses all of the limitations of claim 12 with the exception of the backboard which is included in the packaging. Cvetkov discloses in Figure 1 and in column 2, lines 31-44 a decorating kit comprising a backboard in the form of a metallic plate 12 and a plurality of magnetic sheets 10 which are used to decorate the metallic plate. The metallic plate 12 is provided as part of the kit, as evidenced by the excerpt cited and the language in claim 1. It would have been obvious to one of ordinary skill in the relevant art to modify the kit disclosed by Watson as viewed in combination with Fromm and Thorne by providing a backboard in the

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packaging for the purpose of providing the user with a place to attach the magnetic sheets.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Molner, Danon, Spector and Leonard disclose various art kits. Winks discloses a flexible magnetic sheet having a sticky surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

KF

January 15, 2004

*Kurt Fernstrom*  
Kurt Fernstrom